

REMARKS

Claim 1 is amended herein. Support is found, for example, in the paragraph bridging pages 11-12 of the original specification as filed. No new matter is presented.

I. Response to Claim Rejections under 35 U.S.C. § 112

Claims 1, 2 and 5-9 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

Applicants respectfully traverse the non-enablement rejection for the reasons of record, which are incorporated herein by reference.

Applicants would like to emphasize that to satisfy the enablement requirement of section 112, an application must disclose the claimed invention in sufficient detail to enable a person of ordinary skill in the art to make and use the claimed invention. Applicants respectfully submit that the Examiner improperly relies on the results of the Examples to assert the disclosure is inconsistent. In this regard, present claim 1 recites that the low-density polyethylene (LDPE) has a density equal to or less than 0.919 g/cm³. None of the comparative examples referred to by the Examiner employs an LDPE within the recited range. Specifically, the LDPE has a density of 0.922 in Comparative Examples 1 and 3 and 0.926 in Comparative Example 5. The fact that densities taught by Applicants in the specification may not produce the results of the same level of superiority as the presently claimed LDPE of 0.919 g/cm³ or less does not render the present claims non-enabled. Applicants are permitted to selectively claim embodiments described and enabled in the disclosure over the course of prosecution. There is no prohibition against doing so.

Additionally, the Examiner must consider the totality of the evidence. The ultimate determination of patentability is based on the entire record, by a preponderance of evidence, with due consideration to the persuasiveness of any arguments and any secondary evidence. See MPEP § 2142 citing *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). The legal standard of "a preponderance of evidence" requires the evidence to be more convincing than the evidence which is offered in opposition to it. When an Applicant submits evidence, whether in the specification as originally filed or in reply to a rejection, the Examiner must reconsider the patentability of the claimed invention and the decision on patentability must be made based upon consideration of all the evidence, including the evidence submitted by the Examiner and the evidence submitted by the Applicant. A decision to make or maintain a rejection in the face of all the evidence must show that it was based on the totality of the evidence. Facts established by rebuttal evidence must be evaluated along with the facts on which the conclusion was reached, not against the conclusion itself. See MPEP § 2142 citing *In re Eli Lilly & Co.*, 902 F.2d 943, 14 USPQ2d 1741 (Fed. Cir. 1990).

In this case, the totality of the evidence as a whole is more convincing that the presently claimed invention is sufficiently enabled than any arguments or evidence provided by the Examiner.

Accordingly, Applicants respectfully request withdrawal of the §112, 1st paragraph rejection.

II. Response to Claim Rejections under 35 U.S.C. § 103

Claims 1, 2 and 5-9 are rejected under 35 U.S.C. § 103(2) as being unpatentable over US '848 in view of Ishikawa et al (U.S. 5,212,011) and US '770.

Without conceding the merits of the rejection, claim 1 is amended herein to recite that the filler is an inorganic filler. The cited references do not teach or suggest an inorganic filler in an amount of not more than 5 parts by weight based on 100 parts by weight of the resin composition. Thus, even if the references were combined, the claimed invention as recited in the amended claims would not have been achieved. Thus the present invention is not rendered obvious in view of the cited references, whether taken alone or in combination.

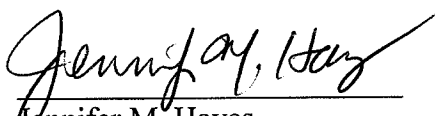
Accordingly, Applicants respectfully request withdrawal of the rejection.

III. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


Jennifer M. Hayes
Registration No. 40,641

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON DC SUGHRUE/265550

65565

CUSTOMER NUMBER

Date: May 23, 2008